

**SYNOPSIS OF CRIMINAL OPINIONS IN THE COURT OF APPEALS OF THE STATE
OF MISSISSIPPI HANDED DOWN AUGUST 30, 2016**

Larry Pointer, III, a/k/a Nip v. State, No. 2015-KA-00785-COA

CASE: Murder and Aggravated Assault
SENTENCE: life for murder, twenty years for aggravated assault

COURT: Marshall County Circuit Court
TRIAL JUDGE: Hon. John Kelly Luther

APPELLANT ATTORNEYS: Mollie M. McMillin

APPELLEE ATTORNEY: LaDonna Holland
DISTRICT ATTORNEY: Benjamin Creekmore

DISPOSITION: Affirmed. Wilson, J., for the Court. Lee, C.J., Irving and Griffis, P.JJ., Barnes, Ishee, Carlton, Fair, James and Greenlee, JJ., concur.

ISSUES: (1) Whether there was sufficient evidence to support aggravated assault and murder convictions; (2) Whether the trial judge should have prevented Pointer's grandmother from testifying because it was coerced and unreliable; (3) Whether Pointer was given a competency hearing.

FACTS: Pointer drove his friends Robert Brown and Ray Crawford from Marshall County to Memphis. On their way back to Marshall County, Pointer and Brown argued about gas money. Brown threatened to kill Pointer. Crawford went to sleep in the back of the car. Pointer drove to the house where he lived with his father, Larry Pointer, Jr., and his grandmother, Nellie Pointer. Pointer said he was going inside to get gas money.

Crawford said he woke up when he was shot in the arm. Crawford ran inside and told Nellie that he had been shot; Nellie called 911. Nellie began screaming during the 911 call, "Larry, don't touch that boy!" She said that her grandson had a knife. She said she did not know who was stabbing or who shot Crawford. When police arrived, Brown was dead outside the house. Pointer told police that Brown shot Crawford, then Pointer and Brown struggled over the gun and over a knife that was in Pointer's car.

Pointer gave a different statement later, involving his father. He told police that he told his dad that Brown had threatened him. The dad got a shotgun and shot at Brown, who was in the car. The bullet struck Crawford. Pointer and his dad got Brown out of the car and beat him up. Pointer told his dad to go in and get a knife. His dad would not stab Brown, so Pointer stabbed Brown repeatedly.

HELD: (1) The evidence permitted a reasonable inference that Pointer encouraged his dad

to shoot Brown (hitting Crawford) and that Pointer stabbed Brown himself. (2) Because Nellie was not an accomplice or informant, there was no basis to instruct the jury to regard her testimony with caution or suspicion. (3) The record shows that Pointer had a full competency hearing after his psychological evaluation.

Jerry Darnell v. State, No. 2015-KA-00785-COA

CASE: Aggravated assault
SENTENCE: Twenty years in MDOC, five suspended, five post-release supervision

COURT: Lowndes County Circuit Court
TRIAL JUDGE: Hon. Lee J. Howard

APPELLANT ATTORNEYS: K. Elizabeth Davis

APPELLEE ATTORNEY: Alicia Ainsworth
DISTRICT ATTORNEY: Forrest Allgood

DISPOSITION: Affirmed. Irving, P.J., for the Court. Lee, C.J., Griffis, P.J., Barnes, Ishee, Carlton, Fair, James, Wilson and Greenlee, JJ., concur.

ISSUES: (1) Sufficiency of the evidence; (2) Weight of the evidence; (3) ineffective assistance of counsel; (4) excessive sentence.

FACTS: Jerry Darnell shot Bernard Harris two times. According to Harris, he was riding with his girlfriend, Kenyatta Stallings, and picked up his daughter at the entrance to the daughter's apartment complex, where she lived with her mother, Tekeshia Jones. Jones and Harris had broken up after a long relationship. Harris and Stallings encountered Jones and Darnell, who were engaged. During an argument, Darnell shot Harris. Darnell claimed that Harris punched Jones with his fist. She claims it knocked her unconscious. Harris claimed he slapped her but didn't punch her. Darnell shot Harris in the leg. According to Darnell, Harris started moving toward him, so he shot him again. Other witnesses say Harris was running back to the car to get away when Darnell shot him again.

HELD: (1) The Court of Appeals found Darnell's claim that there was insufficient evidence to support his conviction to be procedurally barred because he did not renew his motion for a directed verdict after putting on proof during the defense case. (2) The weight of the evidence argument was also procedurally barred because there was no motion for new trial. (3) The record was sufficient for the court to determine that Darnell received effective assistance of counsel. (4) Darnell's sentence was not grossly disproportionate to his crime.